

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 18, 2006. At the time of the Office Action, Claims 1-14 and 16-34 were pending in this Application. Claims 2-14 and 16-34 were rejected. Claim 1 was allowed. Claim 15 was previously cancelled without prejudice or disclaimer. Claims 2, 3, 5, 7, 11, 17-19, 26 and 27 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Allowable Subject Matter

Claim 1 is allowable. Applicants have amended all other claims to recite a promoter having the sequence of SEQ ID NO:1, as is found in Claim 1. Accordingly, Applicants submit that all claims are now allowable.

Rejections under 35 U.S.C. § 112

Claims 2-14 and 16-34 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants amend all rejected independent claims to overcome this rejection.

Claims 2-14 and 16-34 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for the promoter having stem-regulated activity of SEQ ID NO: 1, does not reasonably provide enablement for any nucleic acid that is at least 98% identical to SEQ ID NO: 1 having stem regulated activity. Applicants amend all rejected independent claims to overcome this rejection..

Information Disclosure Statement

Applicants would like to bring to the Examiner's attention that Applicants filed an Information Disclosure Statement on March 10, 2006. Applicants respectfully request that the Information Disclosure Statements be considered and cited in the examination of the above-referenced application. Applicants attach a copy of the Information Disclosure Statement and PTO Form 1449 filed March 10, 2006 for the Examiner's convenience and a copy of the postcard receipt evidencing receipt by the Patent Office.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending Claims.

Applicants enclose a Petition for Three Month Extension of Time, and a check in the amount of \$510.00 for the extension fee. Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2580.

Respectfully submitted,
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Enclosure: 1) Information Disclosure Statement and PTO 1449 Form dated March 10, 2006.